

**HAMPTON ZONING BOARD OF ADJUSTMENT  
MINUTES  
October 21, 2010**

**Members Present**

Bill O'Brien, Chairman  
John Gebhart  
Vic Lessard  
Tom McGuirk  
Henry Stonie (Alternate)

**Others Present**

Joan Rice, Secretary

Chairman O'Brien called the meeting to order at 7:00 p.m.

Chairman O'Brien introduced the members of the Board.

The Pledge of Allegiance was said.

**PETITION SESSION**

Chairman O'Brien announced that the applicant for Petition 37-10 (2 Concord Avenue) requested that it be withdrawn without prejudice.

**Moved** by Mr. Lessard and seconded by Mr. McGuirk, to approve the withdrawal of Petition 37-10 without prejudice.

**VOTE:** 5-0-0. Motion passed unanimously.

**32-10** The petition of Estelle Therien for property located at 66 Kings Highway Unit 4 seeking relief from Articles 1.3 and VIII 8.2.3 to raise the roof over the loft area by 4 ft. and install 2 windows. This property is located at Map 210, Lot 25 in a RB zone.

Estelle Therien came forward. She said she is requesting to raise the roof over the loft area of her property by 4 feet and to install two windows. Ms. Therien went through the five criteria and said she felt they had been met.

*Questions from the Board*

Mr. Stonie asked if her Association had approved this. Ms. Therien replied that they had and she has a letter of permission from them.

*Comments from the Audience*

Richard Violet, 68 Kings Highway, came forward. He said he is an abutter and Ms. Therien's Association has been an exemplary neighbor. Mr. Violet urged approval of this Petition.

*Back to the Board*

**Moved** by Mr. Lessard and seconded by Mr. Gebhart, to grant Petition 32-10 subject to any other necessary Board approvals.

Chairman O'Brien asked the Board members if they felt the five criteria had been met. All members agreed that they had.

**VOTE:** 5-0-0. Motion passed unanimously.

**33-10** The petition of Patricia Provencher for property located at 52 Brown Avenue seeking relief from Articles 1.3 (as to 4.5.1, 4.5.2 and 4.5.3) and 4.4 to raise existing building 2 ft 4 inches in the same footprint so as to be able to place a foundation under it and to get it at a little above the base flood elevation (it is currently 1 foot below that level and subject to continual flooding) which would result in a height, at its highest point, a maximum of 36 6 1/2 inches and to provide for additional steps that would result from the raising with retaining walls to contain the runoff. This property is located at Map 282, Lot 127 in a RB zone.

Patricia Provencher and Attorney Peter Saari, Casassa & Ryan, came forward. Attorney Saari said this is a tight site and the building is below flood plane level. To cure that problem, the petitioner would like to raise the building. Doing this would take it a little above the 35 foot level. The petitioner has agreed to eliminate the retaining wall. Attorney Saari went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. Stonie asked how many units were in the building. Attorney Saari replied that there was one unit. Mr. Stonie asked how high the building would be. Attorney Saari said 36-1/2 feet. Chairman O'Brien asked if there was living space behind the garage. Ms. Provencher said that there was. Chairman O'Brien asked if the upper level was open to the level below. Ms. Provencher said it was.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Mr. McGuirk commented that this will be very expensive. Mr. Lessard asked about the foundation. Mr. Provencher said that the foundation appears to be in good shape.

**Moved** by Mr. Gebhart and seconded by Mr. McGuirk, to grant Petition 33-10.

Chairman O'Brien asked the Board members if they felt the five criteria had been met. All members agreed that they had.

**VOTE:** 5-0-0. Motion passed unanimously.

**34-10** The petition of Sandra Skalkeas for property located at 12 Fellows Avenue seeking relief from Articles 1.3, 4.5.1 and 4.5.2 to add addition to rear of home width of existing building x 15' deep, remove existing deck and add second story. This property is located at Map 292, Lot 78 in a RB zone.

Sandra Skalkeas, Petitioner, and Carl Doucette came forward. Mr. Doucette said they want to remove the existing deck and add a second story. They are seeking front and side setback relief. Mr. Doucette went through the five criteria and said he felt they had been met.

*Questions from the Board*

There were no questions from the Board.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Chairman O'Brien said that in looking at the proposed plot plan it appears that the porch to be built would only be 3 feet deep. Mr. Doucette said that was correct. Chairman O'Brien asked if the chimney would be coming out. Mr. Doucette said it would. Chairman O'Brien said on the south elevation there is a bump-out on the first floor, but it is not on the plot plan. Mr. Doucette said there would be a bump-out, the same size as the existing chimney.

**Moved** by Mr. Gebhart and seconded by Mr. McGuirk, to grant Petition 34-10.

Chairman O'Brien asked the Board members if they felt the five criteria had been met. All members agreed that they had.

**VOTE:** 5-0-0. Motion passed unanimously.

**35-10** The petition of Daniel & Emer Murphy, through Shawn Murphy, for property located at 33 Boars Head Terrace seeking relief from Articles 1.3, 4.5.1 and 4.5.2 to add a roof deck. This property is located at Map 267, Lot 18 in a RA zone.

Shawn Murphy came forward. He said at one time they had a panoramic view, but development has blocked it. They would like to build a roof deck to recapture that view.

Mr. Murphy went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. Stonie asked if there had been any former variances. Mr. Murphy said no.

*Comments from the Audience*

Roy Kilcoyne, 48 Boars Head Terrace, came forward. He said he lives directly across the street. He said the Murphy's are just trying to do what everyone else has done and he would be in favor of the granting of this Petition.

Phil Hilderhurst, 43 Boars Head Terrace, came forward. Mr. Hilderhurst said he has known the Murphy's for 40 years . They have been excellent neighbors and he would support this.

*Back to the Board*

**Moved** by Mr. Lessard and seconded by Mr. McGuirk, to grant Petition 35-10.

Chairman O'Brien asked the Board members if they felt the five criteria had been met. All members agreed that they had.

**VOTE:** 5-0-0. Motion passed unanimously.

**36-10** The petition of Patrick & Ruthanne DeForrest for property located at 4 Susan Lane seeking relief from Articles 1.3, 4.5.1 and 4.5.2 to construct a rear and side addition to be square with existing structure, adjust the roof pitch of the front addition to be consistent with the original structure and add roof over front steps and rotate steps to the east. This property is located at Map 287, Lot 2 in a RB zone.

Patrick DeForrest, Petitioner, and Pat Huntington, Architect, came forward. Mr. DeForrest said he wants to construct a rear and side addition to the house and also construct a roof over the porch. He would also like to rotate the steps to the east. Mr. DeForrest went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. Stonie asked if this was a seasonal building. Mr. DeForrest replied that it was, but he plans to insulate so the building can be used longer in the year. Mr. Stonie asked if there was a basement. Mr. DeForrest said there is a crawl space.

Mr. Stonie asked about the hardship to the land for that variance. Mr. Huntington said the existing building is already a hardship. Mr. McGuirk said the hardship is not necessarily on the land, but the cost to move the building would be considered to cause a hardship.

Chairman O'Brien said he would want to put one parking space straight in because there is not enough room according to the Board's criteria for two parking spaces on the side. Mr. DeForrest said they were considering the possibility of a wraparound driveway. Chairman O'Brien said that before anything else is done, such as a wraparound driveway, the Petitioner should consult with the Building Inspector.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

**Moved** by Mr. Lessard and seconded by Mr. McGuirk, to grant Petition 36-10 on the condition that the driveway ends where it is and one parking space is straight in and the other abuts Brown Avenue. There is no approval of a circular driveway.

Chairman O'Brien asked the Board members if they felt the five criteria had been met. All members agreed that they had.

**VOTE:** 5-0-0. Motion passed unanimously.

**38-10** The petition of Michael Vagnoni for property located at 7 Island Path seeking relief from Articles 1.3 and 8.2.3 to construct 3 entrance way overhangs over doors at 7, 7A and 7B Island Path. This property is located at Map 282, Lot 82 in a BS zone.

Michael Vagnoni, Petitioner, and Pierce Penny came forward. Mr. Vagnoni said he wants to construct 3 entrance way overhangs over doors at 7, 7A and 7B Island Path. Mr. Vagnoni went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. Stonie asked Mr. Vagnoni to explain the nature of the building. Mr. Vagnoni said his father had turned the structure into a snack bar, but it has been turned back into a cottage.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

**Moved** by Mr. Gebhart and seconded by Mr. McGuirk, to grant Petition 38-10.

Chairman O'Brien asked the Board members if they felt the five criteria had been met. All members agreed that they had.

**VOTE:** 5-0-0. Motion passed unanimously.

**39-10** The petition of John Plichta for property located at 13 Gill Street seeking relief from Articles 1.3 and 4.5.3 to replace existing non-conforming glass sunroom with an enclosed addition having an additional 5 feet in length, which meets current setbacks on side. This property is located at Map 223, Lot 31 in a RB zone.

John Plichta, Petitioner came forward. He said he wanted to replace the glass sunroom at the rear of the house with a wood frame structure adding 5 feet on the side. The sunroom is leaking so it needs to be replaced. Mr. Plichta went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. Stonie asked about the damage to the existing sunroom. Mr. Plichta said the glass seals are leaking and there is rain damage. Mr. Stonie asked if anything else needs repairs other than the sunroom. Mr. Plichta said no.

Mr. Gebhart asked if a foundation would be put under the structure. Mr. Plichta said that several contractors have suggested he do this, but he will leave it up to the Building Inspector.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

**Moved** by Mr. Gebhart and seconded by Mr. McGuirk, to grant Petition 39-10.

Chairman O'Brien asked the Board members if they felt the five criteria had been met. All members agreed that they had.

**VOTE:** 5-0-0. Motion passed unanimously.

**40-10** The petition of Tuck Realty Corp. for property located at 124 Landing Road seeking relief from Article 4.1 (footnote 20) to subdivide a 60,067 sq. ft. lot into 2 lots, one 32,732 sq. ft. with an existing house and existing septic system, and the other 27,335 sq. ft. to have a septic, where public sewer is not available and where both lots will have public water. This property is located at Map 239, Lot 2 in a RA zone.

Joe Frenatti and Attorney Peter Saari came forward. Attorney Saari said this is a large lot – 60,000+ s.f. The intention is to cut this lot into two lots, approximately 32,000 s.f. and

27,000 s.f. There is an existing house on the property. The issue is sewage disposal. They propose to add another septic system and replace the existing septic system with a new one. The Hampton Zoning Ordinance requires a 40,000 s.f. lot for a septic system. This lot will have public water. Most lots in this area are on septic. Mr. Frenatti presented the NH Code of Administrative Rules and the Shoreland Protection Act Standards. These septic tanks will be compliant. They will also meet setback requirements. Attorney Saari went through the five criteria and said he felt they had been met.

#### *Questions from the Board*

Mr. Gebhart asked if the present septic system would be removed. Mr. Frenatti replied that it would be taken out and they will build two new systems. Chairman O'Brien asked if everybody in that area has Town water. Mr. Frenatti said they do to the last hydrant on Landing Road. Mr. Lessard asked if they would be running a new water line. Mr. Frenatti said they would be running a new line from the last hydrant as far down as their property. Mr. Frenatti also said the septic systems would be 75 feet from any neighbor's well radius.

#### *Comments from the Audience*

Peter Tilton, 125 Landing Road, came forward. Mr. Tilton said he is an abutter across the street. He said the letter he received was confusing because it seemed to state that the existing septic system would stay where it is. Mr. Tilton also voiced concerns about water flow. Moving two systems closer to an abutter's well could be dangerous.

Robert McAllister, 110 Landing Road, came forward. He said his well is 35 feet from the property line. Mr. McAllister talked about flooding and drainage problems in the area. He said he felt this could cause more flooding on his property and adversely affect his well water.

Fred Clews, 100 Landing Road, came forward. He said he is the abutter on the west side. He said between his lot line and McAllister's there is a culvert to the marsh. All who have wells are worried about this.

Diane Shaw, 98 Landing Road, came forward. She said she is on a shallow dug well and so is her neighbor. They are very concerned.

#### *Back to the Board*

Mr. Frenatti said the systems proposed would not restrict any drainage flow. Also there are no wetlands on the property.

Mr. Lessard asked if both deeds could state that the strip of land down the middle would stay as is. Attorney Saari said they would do so.

Mr. McGuirk asked if it was not true that if the existing septic system failed and was replaced with a new one Town approval would not be needed. Attorney Saari said that was correct. Mr. McGuirk asked which would impact Mr. McAllister more, the old system failing or a new system failing. Mr. Frenatti said there would be more impact with the old system.

Mr. Stonie said the public notice needs some work. Chairman O'Brien said the petition was advertised incorrectly. It indicates that the original septic system would be retained. Mr. McGuirk said it should read as two houses and two new septic systems.

Mr. Gebhart said he would like to see the plot plan identify where neighbors' wells and septic systems are located.

At this time, Mr. Frenatti and Attorney Saari agreed to postpone until next month. Chairman O'Brien asked that the notice be reworded.

**Moved** by Mr. Lessard and seconded by Mr. Stonie, to postpone the hearing of Petition 40-10 until the November 18, 2010 meeting at which time it will be first on the agenda.

**VOTE:** 5-0-0. Motion passed unanimously.

### **BUSINESS SESSION**

#### **Adoption of Minutes**

**Moved** by Mr. Lessard and seconded by Mr. McGuirk, to approve the Minutes of September 16, 2010.

**VOTE:** 4-0-1 (Mr. Stonie). Motion passed unanimously.

#### **Adjournment**

**Moved** by Mr. Lessard and seconded by Mr. McGuirk, that the meeting be adjourned.

The meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Joan Rice  
Secretary